

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

MARK D.,

Plaintiff,

Case No. 3:22-cv-58

vs.

COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,

District Judge Michael J. Newman
Magistrate Judge Kimberly A. Jolson

Defendant.

**ORDER: (1) ADOPTING THE REPORT AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE (Doc. No. 12); (2) AFFIRMING THE ALJ’S
NON-DISABILITY FINDING; AND (3) TERMINATING THIS CASE ON THE
DOCKET**

This Social Security appeal is before the Court on the Report and Recommendation issued by United States Magistrate Judge Kimberly A. Jolson (Doc. No. 12), to whom this case was referred pursuant to 28 U.S.C. § 636(b). Judge Jolson recommended that the Administrative Law Judge’s (“ALJ’s”) non-disability finding be affirmed. Plaintiff filed objections to the Report and Recommendation (Doc. No. 13), and the Commissioner responded (Doc. No. 14).

Upon careful *de novo* consideration of the foregoing, the Court determines that the Report and Recommendation should be adopted. The Court concurs with Judge Jolson’s well-reasoned Report and Recommendation, considering that the ALJ (1) gave a “fresh review” to the new evidence at issue in the present case under the standard set forth in *Earley v. Commissioner of Social Security*, 893 F.3d 929 (6th Cir. 2018); and (2) sufficiently evaluated this evidence by weighing the factors in 20 C.F.R. § 416.920c(b)(2), including supportability and consistency. Accordingly, it is hereby **ORDERED** that: (1) the Report and Recommendation is **ADOPTED** in

full (Doc. No. 12); (2) the ALJ's non-disability finding is **AFFIRMED**; and (3) this case is **TERMINATED** on the docket.

IT IS SO ORDERED.

March 10, 2023

s/ Michael J. Newman

Hon. Michael J. Newman
United States District Judge